

Appl. No. : **09/748,706**
Filed : **December 22, 2000**

REMARKS

Claim 56 has been amended. No new claims have been added. Accordingly, claims 40, 41, 43, 45 and 55-63 are currently presented for examination.

No new matter has been added to the application. The amendment to claim 56 is supported by the description at page 20, lines 13-19 and elsewhere throughout the specification.

Objection to Claim 45

The Examiner objects to claim 45 because it appeared twice in the Listing of Claims submitted with the amendment filed January 18, 2005. Claim 45 appears only once in the current Listing of Claims. Accordingly, Applicants request that the Examiner withdraw the objection to claim 45.

Rejection of Claim 56 Under 35 U.S.C. § 112, Second Paragraph

The Examiner rejects claim 56 as being indefinite under 35 U.S.C. § 112, second paragraph because it is allegedly unclear “whether all of the IBLs and DBLs are a single nucleic acid or whether each IBL and DBL is a single stranded nucleic acid.” The Examiner suggests that the claim be amended to recite, in relevant part, that “each comprise a single stranded nucleic acid.”

Although Applicants disagree that claim 56 is unclear as written, Applicants have amended claim 56 as suggested by the Examiner in order to expedite the allowance of the instant application. As such, Applicants respectfully request that the Examiner withdraw the rejection of claim 56 under 35 U.S.C. § 112, second paragraph.

Obviousness-type Double Patenting Rejection of Claims 40, 41, 43, 45 and 55-63

The Examiner rejects claims 40, 41, 43, 45 and 55-63 under the judicially created doctrine of obviousness-type double patenting over claims 1-13 of U.S. Patent No. 6,620,584. Specifically, the Examiner states that the conflicting claims are not identical, however, she asserts that these claims are not patentably distinct.

Applicants, agree that the currently pending claims are not identical to claims 1-13 of U.S. Patent No. 6,620,584, however, disagree that these claims are not patentably distinct.

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Nevertheless, in the interest of an expedited allowance of the instant claims, Applicants file a terminal disclaimer herewith.

CONCLUSION

Applicants believe that all outstanding issues in this case have been resolved and that the present claims are in condition for allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is invited to contact the undersigned at the telephone number provided below in order to expedite the resolution of such issues.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: June 10, 2005

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